

The Law Office of Joseph Mauro, LLC
306 McCall Ave.
West Islip, NY 11795

(631) 669-0921
(631) 669-5071 fax

December 16, 2013

Honorable Joseph Bianco
Alphonse M. D'Amato Federal Courthouse
100 Federal Plaza
Central Islip, NY 11722

RE: Kalkstein et al v. Collecto, Inc.

CV -13 – 2621 (JFB)(GRB)

Honorable Judge Bianco,

I represent the Plaintiff in the above matter. Please accept this letter as a request for a pre-motion conference. The Plaintiff seeks to file a motion for class certification pursuant to Rule 23.

On April 30, 2013, Plaintiff brought this putative class action lawsuit against Collecto, Inc. d/b/a EOS CCA (“Collecto”) alleging that Defendant debt collector is mass mailing dunning letters to former students of the New York Institute of Technology seeking to collect allegedly unpaid tuition. The Plaintiff Amended the Complaint on September 11, 2013. The debt that the Defendant is attempting to collect from each student includes a “collection fee” amounting to over 42% of the allegedly outstanding principal balance. This fee is illegal. Additionally, the form letters also state “We may report information about your account to credit bureaus.” This is also illegal in that it is false; the debts are well past the permissible credit reporting period. The Plaintiff has alleged that the imposition of a 42% collection fee; and the indication that the Defendant could report information to the credit bureaus, constitute violations of the Fair Debt Collection Practices Act. (15 USC 1692 et seq. hereinafter FDCPA). Congress considered the imposition of unlawful collection costs such an important prohibition that no less than three different subsections of the FDCPA prohibit such. [15 USC 1692 e(2); 15 USC 1692e(5); and 15 USC 1692f(1)].

The Defendant has represented through discovery responses that the form letter in question was sent to 360 former students of New York Tech in New York.

Plaintiff intends to now move for class certification.

The Court should note that on August 9, 2013 the Honorable Judge Arthur D. Spatt certified a class action in the matter of *Annunziato v. Collecto, Inc.*, 2013 U.S. Dist. LEXIS 113073 (E.D.N.Y. Aug. 9, 2013) (“Annunziato”) (The Defendant in *Annunziato* is the Defendant herein, as are the Plaintiff and Defendant’s counsel). The mass mailed letter at issue in

Annunziato is extremely similar (though not identical) to the letter at issue in the instant case.¹

The Plaintiff requests the pre-trial conference to begin the process of filing the motion.

Sincerely,

Joseph Mauro
Attorney for Plaintiff

¹ This action is distinct from the *Annunziato* class action in that they relate to different time periods, and the letters are somewhat different. The Defendant continued to impose the illegal 42% interest well after the *Annunizato* case was underway. Mr. Kalkstein, the Plaintiff herein, was one of the Defendant's new victims. Additionally, as noted above, the Defendant added a new illegal threat to their letter, post *Annunziato*. As noted herein, Defendant now includes a threat to report information onto consumers' credit reports, despite the fact that the debts are well past the permissible credit reporting period. (Mr. Kalkstein's alleged tuition obligation is approximately 15 years old).